

**REMARKS**

Applicants thank the Examiner for the detailed Office Action dated 10 January 2008. Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

Claims 1 and 3-39 remain pending in the application.

For simplicity and clarity purposes in responding to the Office Action, Applicants' remarks are primarily focused on the rejections applied to the independent claims (*i.e.*, claims 1, 15, 27, 31, and 39) as outlined in the Office Action with the understanding that the dependent claims are patentable for at least the same reasons (and in most cases other reasons) that the independent claims are patentable. Applicants expressly reserve the right to argue the patentability of the dependent claims separately in any future proceedings.

**Claim Rejections – 35 U.S.C. § 102*****Independent Claims 1 and 39***

On page 2 of the Office Action, independent claims 1 and 39 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,662,681 to Nash et al. Applicants respectfully traverse the rejection. The Nash et al. reference does not identically disclose the subject matter recited in independent claim 1. For example, independent claim 1, recites a “tissue puncture closure device” including, among other elements, a “sealing plug,” a “tamping tube” and an “automatic driving mechanism that tamps the sealing plug utilizing force generated by withdrawal of the closure device from the internal tissue wall puncture **to move the tamping tube toward the sealing plug,**” which is not taught or suggested by Nash et al. The alleged

automatic driving mechanism 36 of Nash et al. (*i.e.*, the locking member 36) does not utilize a force generated by withdrawal of the closure device to move the alleged tamping tube 20 toward the sealing plug 30.

The Nash et al. reference likewise does not identically disclose the combination of elements recited in independent claim 39. For example, independent claim 39, recites a “method of sealing a tissue puncture” including, *inter alia*, “automatically tamping the sealing plug with the tamping member utilizing force generated by withdrawal of the closure device from the internal tissue wall puncture.” This limitation is neither taught nor suggested by Nash et al. The alleged tamping member 20 of Nash et al. does not use force generated by withdrawal of the closure device to tamp the sealing plug. In fact, there is no evidence to suggest that the alleged tamping member 20 moves at all when the closure device is withdrawn.

Applicants note that independent claim 39 also recites “withdrawing the tamping member from the percutaneous incision,” which precludes the locking member 36 of Nash et al. from qualifying as the recited tamping member.

For the above reasons, Applicants respectfully submit that independent claims 1 and 39 and the claims which are dependent thereon are not anticipated by the cited reference and are patentable.

#### **Claim Rejections – 35 U.S.C. § 103(a)**

##### ***Independent Claim 31***

On page 4 of the Office Action, independent claim 31 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,662,681 (Nash). Applicants respectfully

traverse the rejection. Nash et al fails to disclose, teach, or suggest the subject matter recited in independent claim 31.

The Examiner has alleged that Nash et al. discloses “automatically transducing a motive force generated by withdrawal of the closure device in a first direction to move a tamping member to provide a tamping force in a second direction” as recited in independent claim 31. However, there is no evidence that motive force generated by withdrawal of the closure device in a first direction is transduced to move the alleged tamping member 20 of Nash et al. in a second direction. In fact, the Examiner has provided absolutely no evidence to suggest that the alleged tamping member 20 moves at all when the closure device is withdrawn.

For the above reasons, Applicants respectfully submit that the subject matter recited in independent claim 31 and the claims which are dependent thereon is not obvious and is patentable.

### **Double Patenting**


#### ***Claims 1-39***

On pages 4-5 of the Office Action, all of the claims were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over copending U.S. Application Nos. 11/130,895, 11/130,688, 11/103,730, 11/103,257. Applicants respectfully note that none of these applications currently contain allowed claims. Since the claims may change, Applicants will wait to address any potential double patenting issues until Applicants receive an indication that the claims in these applications or the present application have been allowed.

Applicants respectfully submit that the present Application is in condition for allowance. Applicants request reconsideration and allowance of the pending claims. The Examiner is invited to contact the undersigned by telephone if the Examiner needs anything or if a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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